

United States of America
Before the
FEDERAL COMMUNICATIONS COMMISSION

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the matter of)
)
Implementation of the Pay Telephone)
Reclassification and Compensation Provisions) CC Docket No. 96-128
of the Telecommunications Act of 1996)
)
Pacific Bell and Nevada Bell)
)
Comparably Efficient Interconnection)
Plan for the Provision of Payphone Services)
_____)

JOINT COMMENTS OF
SAN DIEGO PAYPHONE OWNERS ASSOCIATION
and
PAYPHONE SERVICE PROVIDERS GROUP
ON PACIFIC BELL'S PROPOSED CEI PLAN FOR PAYPHONE SERVICES

On January 13, 1997, the Commission issued notice of the filing by Pacific Telesis on December 26, 1996, of a Comparably Efficient Interconnection (CEI) plan for payphone services on behalf of Pacific Bell and Nevada Bell. Pacific submitted the CEI plan for payphone services in compliance with the Commission's directive in its Report and Order in this proceeding.¹ The San Diego Payphone Owners Association (SDPOA) and the Payphone Service Providers Group (PSPG) hereby jointly submit their comments on the CEI plan for Pacific Bell's payphone services to the Commission's Common Carrier Bureau.

¹ Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Report and Order, FCC 96-388, released Sept. 20, 1996 ("Payphone Order"), as amended in Erratum released September 27, 1996; Order on Reconsideration, FCC 96-439, released November 8, 1996 ("Payphone Reconsideration Order").

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SDPOA and PSPG are both groups representing independent payphone providers in California. SDPOA is a locally-based trade association of owners of private pay telephones in the San Diego metropolitan area. SDPOA's approximately 40 members own approximately 5,100 pay telephones.

PSPG is an organization formed in 1996 to represent payphone service providers throughout California. PSPG currently has 62 members who collectively own approximately 3,700 pay telephones statewide.

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The members of SDPOA and PSPG compete with Pacific Bell in the placement and operation of payphones throughout Pacific Bell's service area in California. SDPOA and PSPG therefore have strong interests in the manner in which Pacific Bell restructures its payphone operations pursuant to the Commission's Payphone Order.

Implementing Section 276 of the Telecommunications Act of 1996 in its Payphone Order, the Commission directed all Bell Operating companies (BOCs) to comply with all CEI and ONA requirements with respect to their payphone services. Among other things, such a CEI plan must describe how the BOC will unbundle all basic elements of

payphone service and the availability of such services for resale. The Commission delegated to the Common Carrier Bureau authority to review and approve such CEI plans. Pacific Bell seeks approval of its plan by April 15, 1997.

The principal concern of SDPOA and PSPG with Pacific Bell's CEI proposal is that it leaves unanswered many critical questions about whether Pacific Bell's Public Communications division (PubCom) will continue to enjoy unfair competitive advantages from its corporate affiliation with the LEC. These are matters that CEI/ONA regulation and the Commission's accounting safeguards do not satisfactorily address. SDPOA and PSPG submit that Pacific Bell's CEI plan is the appropriate vehicle for dealing with these issues.

An important example of such matters is Pacific Bell's longstanding practice of coding its own payphone lines to notify its operators when a caller seeking assistance is using a Pacific Bell payphone. The company's CEI plan does not mention this practice. Presumably, Pacific Bell intends to continue it. Line coding indicates far more than a likelihood that Pacific Bell's operators will offer better and more complete service to users of Pacific Bell's payphones than they do to callers from other payphone sets. In fact, line coding opens up to PubCom a host of valuable services from the LEC that always have been and, by all indications, will remain unavailable to independent PSPs. For example, LEC operators always have provided special handling of callers from Pacific Bell payphones, often resulting in services such as bill credits, call completion, etc. The LEC always has steadfastly refused to provide such services to callers from PSP phones; the CEI plan gives no indication that this preferential arrangement will be either discontinued for PubCom or made available on equal terms to PSPs. Line coding also has provided the LEC's payphones

with a layer of security against credit card and other forms of fraud that has never been available to PSPs. Pacific Bell's CEI plan is silent about whether PubCom will continue to enjoy this advantage over its PSP competitors. It likewise does not address whether PubCom will receive preferential handling of refunds and repairs.

Of perhaps greatest importance, however, are PubCom's advantages by virtue of its relationship with the LEC in the collection and payment of commissions. The LEC's payphone division utilizes the LEC's accounting, billing and collection systems to automate the calculation, creation and mailing of commission checks to location providers in ways that simply are not available to PSPs. Moreover, only the LEC has complete data on call completion from phones connected to its network. Pacific Bell always has refused to make such data available to PSPs, despite repeated requests, even though it is the only source for this valuable information. When PSPs gather the best data they can from SMDR equipment, it still is discounted heavily by IXC's and others because it does not come from the LEC, the only source of call completion information. Will the LEC continue to provide PubCom such data to facilitate and expedite PubCom's collection of commissions from interstate carriers and credit card providers? Similarly, will PubCom have access to the very favorable RBOC billing arrangements? The CEI plan does not say. The Commission should ensure that such preferential treatment of Pacific Bell's payphone division is either discontinued or that the same terms are made available to all PSPs.

Although at least discussed in Pacific Bell's CEI plan, service ordering is another issue that the Commission should scrutinize. Pacific Bell's payphone division has long enjoyed ready access to service ordering personnel and systems and timely completion

of new service installations. In contrast, it has not been unusual for PSP members of SDPOA and PSPG to wait as long as six weeks to place an order for service with the LEC's COPT Service Center and obtain dial tone at the requested location. While Pacific Bell states in its plan that PubCom also will place service orders through the COPT Service Center, it does not say who will order lines and sets for PubCom. The Commission should ensure that PubCom will not have preferential access (e.g., via dedicated phone lines or electronic mail) to Pacific Bell's service-ordering systems or to the LEC's service-ordering or network installation personnel.

The Commission also should closely examine Pacific Bell's assertion that no special network interfaces will be available to PubCom. Even if this is so for the future, it does not address unique network serving arrangements for the LEC's payphone division which may already be in place, for example, for Pacific Bell's prison and/or California government contracts. The CEI plan does not address whether T-1 or other high-capacity and/or specialized serving arrangements will now be withheld from PubCom or made available on equal terms to all PSPs. The Commission should require Pacific Bell to fill this gap.

These are but a few of the myriad issues that non-structural separation of Pacific Bell's payphone operations presents. SDPOA and PSPG urge the Commission to address these issues in detail and ensure that they are resolved in a manner consistent with fair competition before approving Pacific Bell's CEI plan. SDPOA and PSPG also hope, however, that the Commission will understand that the need for it to involve itself in such

questions illustrates that CEI/ONA regulation of Pacific Bell's payphone business offers incomplete satisfaction of the requirements of Section 276 of the Telecommunications Act.

SDPOA and PSPG recognize that the Commission declined in the Payphone Order to order significant unbundling of payphone services. Nevertheless, they urge the Commission to keep in mind the compelling need for prompt offering of fully unbundled services to all PSPs in order to ensure fair competition. Relying only on the 120-day ONA request procedure unreasonably shifts to small, independent PSPs the burden of pursuing effective unbundling. The modest resources available to such providers, even when they act jointly, makes it virtually impossible for them to undertake such efforts. Similarly, while state commissions also retain authority to order further unbundling, the enormous burdens which the 1996 Act and the Commission's rulings and orders thereunder already have imposed on state regulators makes it unlikely at best that meaningful unbundling will be forthcoming by this route in a reasonable time frame. SDPOA and PSPG urge the Commission, if it approves Pacific Bell's CEI plan, to consider placing conditions on such approval to induce Pacific Bell to unbundle fully its payphone services.

Pacific Bell's COPT service is comprised of a variety of bundled services, many of which are (or could be) available from competing providers. Perhaps the clearest examples of this are the operator and billing services that are included in COPT service and in the associated COPT line charges. So long as COPT service is not fully unbundled and there is no structural separation between Pacific Bell and its payphone operations, there remains strong potential for undue discrimination and preferential treatment favoring the company's payphone division to the detriment of independent payphone service providers.


Finally, even if all of the flaws in Pacific Bell's CEI plan are overlooked, the Commission should understand that Pacific Bell's present business practices suggest that it will be unable to comply with the Commission's CEI requirements by the April 15 effective date that it has requested. Pacific Bell's CEI plan necessarily contemplates numerous significant changes to the operation of its payphone business and to its information and call handling practices and systems. To the best of SDPOA's and PSPG's knowledge, however, Pacific Bell has not yet even begun testing new systems or implementing other structural changes in its business operations. When Pacific Bell announced its first "Customized Billing Disk" product for COPT customers, promising only simple automation of COPT billing, the company needed three years to develop the product; subsequent upgrades have been slow or not forthcoming. Similarly, the company required more than a year and a half to implement changes to its billing systems to accommodate the California PUC's rulings restructuring its intrastate rates. With only two months remaining before its proposed CEI effective date, it appears doubtful that Pacific Bell can implement all of the changes to its business operations and systems that the Commission's CEI regulations require. SDPOA and PSPG respectfully urge the Commission to question Pacific Bell closely about the status of its compliance with CEI requirements and assess carefully the company's ability to meet its proposed April 15 effective date.

In order not to burden the Commission unreasonably, SDPOA and PSPG have described here only some of the many issues and concerns of their members regarding Pacific Bell's CEI filing. SDPOA and PSPG submit that there is ample reason for the Commission to scrutinize Pacific Bell's CEI plan for payphone services and require, to the

fullest extent allowed under the Commission's rules, that the company submit revisions to the plan to correct the shortcomings identified above. Pacific Bell should not be permitted to begin collecting compensation from interstate carriers for calls placed from its payphone sets until its revised plan has been reviewed and approved by the Commission.

Respectfully submitted,

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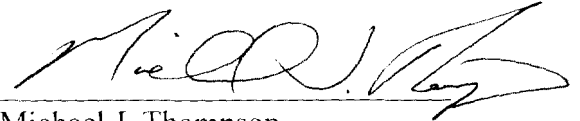
Attorneys for
San Diego Payphone Owners Association
and
Payphone Service Providers Group

February 12, 1997

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Certificate of Service

The undersigned certifies that the foregoing "Joint Comments of San Diego Payphone Owners Association and Payphone Service Providers Group on Pacific Bell's CEI Plan for Payphone Services" in CC Docket 96-128 was mailed on February 12, 1997, by U.S. Mail, postage prepaid, to all counsel for Pacific Bell named on "Pacific Bell's and Nevada Bell's CEI Plan for Payphone Service." SDPOA/PSPG were unable to obtain an official service list for this proceeding from the Commission, due to reported computer systems malfunctions at the Commission's offices. As soon as counsel for SDPOA/PSPG obtains the service list, the foregoing doceument will be served on all parties to this proceeding.

A handwritten signature in black ink, appearing to read "Michael J. Thompson", written over a horizontal line.

Michael J. Thompson